

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

DANTREZ JOHNSON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:22-cv-00784-TWP-MG
	)	
ANDERSON POLICE DEPARTMENT,	)	
SCOTT MELLINGER,	)	
TYLER JUGG,	)	
THOMAS BRODERICK,	)	
CITY OF ANDERSON/PAUL PODLEJSKI,	)	
BRADLEY MILLER,	)	
VACCARRO,	)	
KELLI,	)	
	)	
Defendants.	)	

**Order Screening Complaint and Directing Service of Process**

Dantrez Johnson, an inmate at Madison County Jail, brings this lawsuit alleging violations of his civil rights. Because Mr. Johnson is a "prisoner," the Court must screen his complaint before directing service on the defendants. 28 U.S.C. § 1915A. As explained below, Mr. Johnson's Fourteenth Amendment claim alleging inadequate medical care **shall proceed** against Nurse Kelli in her individual capacity. All other claims are **dismissed**.

**I. Screening Standard**

The Court will dismiss the complaint, or any portion of the complaint, if it is frivolous or malicious, fails to state a claim for relief, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B). The Court applies the standard for a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). *Cesal v. Moats*, 851 F.3d 714, 720 (7th Cir. 2017). The complaint "must contain sufficient factual matter, accepted as true, to state a claim for relief that is plausible on its face. A claim has facial plausibility when the plaintiff pleads

factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). *Pro se* complaints are construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers. *Perez v. Fenoglio*, 792 F.3d 768, 776 (7th Cir. 2015) (internal quotations omitted).

## **II. The Amended Complaint**

The amended complaint names the following defendants: Madison County Sheriff Scott Mellinger, Madison County Jail Commander Tyler Jugg, Jailer Vaccarro, Nurse Kelli, Anderson Police Department, Anderson Mayor Thomas Broderick, and Anderson City Attorney Paul Podlejski. Mr. Johnson seeks compensatory and punitive damages.

The amended complaint alleges the following:

On January 16, 2021, Mr. Johnson was arrested by Officer Bradley Miller of the Anderson Police Department. During the arrest, Officer Miller tased Mr. Johnson and "stomped on [his] shoulder area," causing Mr. Johnson to suffer "a broken collar bone and/or shoulder area." Dkt. 17, para. 3. The next day, Sergeant Jonathan Bowling cleared Officer Miller of excessive force without an investigation into the incident. *Id.* at para. 2.

During his incarceration at Madison County Jail, Mr. Johnson was temporarily housed in the infirmary due to his broken collar bone and/or shoulder area. *Id.* at para 6. Nurse Kelli was responsible for his medical care. *Id.* at para. 21. Nurse Kelli prematurely cleared Mr. Johnson to return to a D Block cell and deprived him of necessary medication. *Id.*

On an unspecified date at Madison County Jail, Jailer Vaccarro tied Mr. Johnson to a restraint chair for approximately two hours. This caused Mr. Johnson to experience chest pain "and his left leg and arm to produce dark spots on his skin." *Id.* at para. 20.

### III. Discussion

#### A. Claims that are Dismissed

##### 1. Mellinger, Jugg, and Broderick

The amended complaint alleges that Sheriff Mellinger is "responsible for the conditions at the jail"; that Commander Jugg is "responsible for the safety, supervision, and care" of inmates at the jail; and that Mayor Broderick "is directly responsible for the city police and the implication of police policies." Dkt. 17, paras. 18, 19, 23.

To the extent Mr. Johnson seeks to hold Sheriff Mellinger, Commander Jugg, and Mayor Broderick liable for the injuries he suffered on January 16, 2021, or for the conditions of his confinement at the jail, those claims are **dismissed** because the amended complaint does not allege that these defendants personally caused Mr. Johnson to suffer a constitutional violation, and because individuals may not be held liable under § 1983 for acts or omissions of their subordinates simply by virtue of their supervisory positions. *See Colbert v. City of Chicago*, 851 F.3d 649, 657 (7th Cir. 2017) ("Individual liability under § 1983 requires personal involvement in the alleged constitutional deprivation.") (cleaned up); *Wolf-Lillie v. Sonquist*, 699 F.2d 864, 869 (7th Cir. 1983) ("Section 1983 creates a cause of action based on personal liability and predicated upon fault. An individual cannot be held liable in a § 1983 action unless he caused or participated in an alleged constitutional deprivation. A causal connection, or an affirmative link, between the misconduct complained of and the official sued is necessary.") (cleaned up).

##### 2. Anderson Police Department

All claims against Anderson Police Department are **dismissed** because local police departments are not suable entities under Indiana law and thus may not be named as defendants in suits brought under § 1983. *Rodriguez v. McCloughen*, 2022 WL 4534787 (7th Cir. 2022) (citing

*Sow v. Fortville Police Dep't*, 636 F.3d 293, 300 (7th Cir. 2011) (citing Ind. Code § 36-1-2-10 to -11; *McMillian v. Monroe County*, 520 U.S. 781, 786, (1997) (holding that local government liability under § 1983 "is dependent on an analysis of state law"))).

### 3. Podlejski

The amended complaint alleges that City Attorney Podlejski approves "all requests for public records for the city" and that "[h]e never produces needed documentation or other evidence requested for discovery." Dkt. 17, para. 24. To the extent Mr. Johnson claims that City Attorney Podlejski's refusal to produce documents violates Indiana's Access to Public Records Act, *see* Ind. Code § 5-14-3, this claim is **dismissed** because mere violations of state law do not form a basis for liability under § 1983 and because the amended complaint does not claim that City Attorney Podlejski's refusal to produce public records violated Mr. Johnson's rights under federal law. *J.H. ex rel. Higgin v. Johnson*, 346 F.3d 788, 793 (7th Cir. 2003).

### 4. Vaccarro

The amended complaint alleges that Jailer Vaccarro tied Mr. Johnson to a restraint chair for approximately two hours and that the restraints caused chest pain and dark marks to appear on his left arm and leg.

The Fourteenth Amendment protects pretrial detainees from the excessive use of restraints. *Davis v. Wessel*, 792 F.3d 793, 799 (7th Cir. 2015) (citing *Youngberg v. Romeo*, 457 U.S. 307, 321 (1982)). Officials may not use bodily restraints "in a manner that serves to punish a pre-trial detainee. The use of bodily restraints constitutes punishment in the constitutional sense if their use is not rationally related to a legitimate nonpunitive government purpose or they appear excessive in relation to the purpose they allegedly serve." *Davis*, 792 F.3d at 800. In reviewing such claims, courts must account for the "legitimate interests that stem from the need to manage the facility in

which the individual is detained, appropriately deferring to policies and practices that in the judgment of jail officials are needed to preserve internal order and discipline and to maintain institutional security." *Id.* (cleaned up).

In this case, the amended complaint does not allege sufficient facts to create a reasonable inference that Jailer Vaccarro's use of restraints was excessive. The amended complaint does not describe the events leading up to Mr. Johnson's placement in the restraint chair or Mr. Johnson's behavior while he was in the restraint chair. Of course, the Court assumes for pleading purposes that the facts alleged in the amended complaint are true, *see Iqbal*, 556 U.S. at 678, but the Court cannot reasonably infer from the sparsely pleaded facts that the use of a restraint chair was unrelated to a legitimate non-punitive purpose or was excessive in relation to that purpose. Nor can the Court reasonably infer that that Jailer Vaccarro "possess[ed] a purposeful, a knowing, or possibly a reckless state of mind" in tying Mr. Johnson to the restraint chair, as would be required to plead a claim under the Fourteenth Amendment. *Davis*, 792 F.3d at 801. Accordingly, Mr. Johnson's excessive restraints claim against Jailer Vaccarro is **dismissed**.

Further, the claim against Jailer Vaccarro is misjoined to Mr. Johnson's claim against Nurse Kelli, the only remaining claim in this lawsuit. *See Supra* III-B. These claims involve different defendants, relate to separate incidents, and do not share common issues of law or fact; therefore, they do not belong in the same lawsuit. *See* Fed. R. Civ. P. 20(a); *George v. Smith*, 507 F.3d 605, 608 (7th Cir. 2007) ("Unrelated claims against different defendants belong in different suits."). Because the amended complaint fails to plead a claim for excessive restraints, the Court exercises its discretion to dismiss the claim against Jailer Vaccarro rather than sever the claims and open a new civil action. Fed. R. Civ. P. 21. ("Misjoinder of parties is not a ground for dismissing an action. On motion or on its own, the court may at any time, on just terms, add or drop a party. The court

may also sever any claim against a party."). If Mr. Johnson chooses to replead his excessive restraints claim against Jailer Vaccarro, he will need to file a new lawsuit and pay the filing fee, rather than seek leave to amend his pleading in this lawsuit.

#### **B. Claim that Shall Proceed**

Based on the allegations in the amended complaint and the screening standard set forth above, Mr. Johnson's Fourteenth Amendment due process claim regarding inadequate medical care at Madison County Jail **shall proceed** against Nurse Kelli in her individual capacity.

This summary includes all viable claims identified by the Court. If Mr. Johnson believes the amended complaint includes additional viable claims, he may identify those claims in a separate filing by **February 10, 2023**.

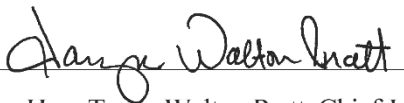
#### **IV. Service of Process**

The **clerk is directed** pursuant to Fed. R. Civ. P. 4(c)(3) to issue process to defendant Nurse Kelli in the manner specified by Rule 4(d). Process shall consist of the amended complaint filed on November 23, 2022, dkt [17], applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Order.

The **clerk is directed** to terminate Anderson Police Department, Scott Mellinger, Tyler Jugg, Thomas Broderick, City of Anderson / Paul Podlejski, Vaccarro, and Bradley Miller as defendants on the docket.

Nothing in this Order prohibits the filing of a proper motion pursuant to Rule 12 of the Federal Rules of Civil Procedure.

Date: 1/20/2023

  
Hon. Tanya Walton Pratt, Chief Judge  
United States District Court  
Southern District of Indiana

Distribution:

DANTREZ JOHNSON  
3204 Ripple Drive  
Anderson, IN 46012

Nurse Kelli  
Madison County Jail – Medical Staff  
3204 Ripple Drive  
Anderson, IN 46012

**FILED**

**OCT 21 2022**

**U.S. CLERK'S OFFICE  
INDIANAPOLIS, INDIANA**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

Dantrez Johnson	)	
Plaintiff	)	
	)	Cause No. 1:22-cv-00784-TWP-MG
v.	)	
	)	
Anderson City Police Department, et al	)	
City of Anderson, et al	)	
Madison County, et al	)	Motion For Plaintiff's Amended Complaint
Defendants	)	

**PLAINTIFF'S COMPLAINT FOR DAMAGES**

Come now, Plaintiff, Dantrez Johnson, pro se, and for his complaint states as follows:

**INTRODUCTION**

1. This action arises from an incident occurring on January 16, 2021. Officer Bradley Miller, #378, states that I hit him with a closed fist in the jaw. (Exhibit A) There were two other officers there and those other two officers didn't put any such allegation in their incident reports. According to reports by the local paper all officers were equipped with body cams in January 2020 although none of the officers involved wore body cam during this incident
2. On January 17, 2021, Sergeant Joshua Bowling, cleared officer Bradley Miller of excessive force although the police report has no documentation of Bradley Miller's misconduct or body cam footage to clear Miller from any excessive force allegations.
3. On January 16, 2021 Officer Bradley Miller tased the Plaintiff and failed to create an incident report concerning what happened after taser deployment. Miller had no body cam on this day and the injuries involving a broken collar bone and/or shoulder do not match Miller's documentation. On this same day Officer Miller went to the hospital and was not in need of any



medical treatment. Plaintiff was handcuffed when Officer Bradley Miller stomped on Plaintiff's shoulder area.

4. Officer Bradley Miller, transferred from Tippecanoe police department into the Anderson Police Department where allegations of being hit in the jaw were made by Miller similar to those alleged on Plaintiff (Exhibit B).

5. On June 1, 2021 Plaintiff was made aware of outstanding warrants for his arrest. Plaintiff contacted his Aunt Dawn King which made a phone call to Plaintiff's public defender, Joe Dupner. Joe Dupner stated on the phone conversation confirmed that the warrants were showing in the warrant system. Plaintiff then turned himself in although his right arm was in a sling caused by Officer Bradley Miller on January 16, 2021.

6. Plaintiff was placed in the infirmary at the Madison County jail due to an obvious injury which required a sling. The inmates in the infirmary are not allowed commissary although family provided money on Plaintiff's account to purchase any items needed while incarcerated. Upon release, Plaintiff was not given all of his belongings or unspent money from his account

7. Plaintiff's Aunt Dawn advocated for him by contacting the public defender, Joe Dupner, and Plaintiff was released after video court on June 23, 2021. At that time Plaintiff was approved to Mockingbird Recovery located in Anderson, Indiana.

7. Plaintiff completed the program at Mockingbird Recovery and returned home to live with his grandmother and aunt.

8. On April 21, 2022 Plaintiff was not incarcerated and filed this case with the Southern District of Indiana, Indianapolis Division.

9. In February 2022, Plaintiff was accepted to a recovery program in Richmond, Indiana where a bed was available and family would provide transportation to Richmond. Judge Andrew Hopper, Madison County Circuit III, denied my acceptance into the program.

10. Plaintiff began attending church with his Aunt Dawn and was told by another church member that the church has a recovery house. Plaintiff was approved to attend this program on

May 1, 2022 (Exhibit C) through emails conversations between Joe Dupner and my Aunt Dawn King.

11. On May 5, 2022, Dawn King called Plaintiff to inform him that his public defender wanted to speak to him. This caused the Plaintiff to panic and have a psychosis episode due to the false allegations made on January 16, 2021 by Officer Bradley Miller. Plaintiff was residing at the House of Hope in Anderson, Indiana. In a panic, Plaintiff left the House of Hope causing concern for his safety. His mother called the police and then this concern turned into new charges against Plaintiff.

12. Plaintiff had a job offer in August 2021 from I.D. Casting in Noblesville making approximately twenty dollars an hour but was not able to perform the duties with the injuries sustained from Officer Bradley Miller.

13. Plaintiff had worked in positions at Ihop, Kentucky Fried Chicken, and Wendy's but was subsequently fired from all of them. Plaintiff's mouth and body are still shaking from being tased.

14. Plaintiff has lost all trust with public officials due to false accusations, being tased, and stomped. Furthermore, the Plaintiff has suffered intentional infliction of emotional distress and physical harm from Defendants.

15. Plaintiff alleges there have not been any investigation on any officer involved in this matter.

#### **JURISDICTION AND VENUE**

16. This action is pursuant to title 42 U.S.C section 1983

17. This court has jurisdiction over the subject matter pursuant to 28 U.S.C section 1331

#### **DEFENDANTS**

18. Scott Mellinger, at all times material to this action was the duly elected and acting sheriff of Madison County Sheriff Department and Correctional facility. Mellinger is responsible for the conditions at the jail and the management rights of policies per the Madison County Employee Handbook page 3 section 1.6 titled Management Rights.

19. Tyler Jugg, at all times to this action was acting as Jail Commander of the Madison County Jail. Jugg is responsible for the safety, supervision, and care of Plaintiff. Jugg is equally responsible for the conduct of his jail staff.

20. Jailer Vaccarro, full name unknown, an employee at the Madison County jail at the time of this action was responsible for tying Plaintiff to a restraint chair for two hours causing chest pains, and his left leg and arm to produce dark spots on his skin. This constitutes cruel and unusual punishment and deprivation of rights by constricting Plaintiff's movements.

21. Nurse Kelli, was an employee in the medical position of the Madison County jail and responsible for safety, supervision, and care of Plaintiff. Nurse Kelli prematurely cleared Plaintiff to be moved to D Block cell with a broken collar bone/shoulder injury. Plaintiff was deprived of his medicine by Nurse Kelli. Nurse Kelli stated she had the same medicine in her supplies which was false causing missed dosage of needed medication.

22. Anderson Police Department cleared Officer Bradley Miller of excessive force without evidence of an investigation. Plaintiff was never questioned about the incident. The policy to make a complaint against on an officer was revised following Plaintiffs request for a police report from the incident on January 16, 2021. The request was denied in November 2021 for both Dawn King and Plaintiff.

23. Thomas Broderick, was acting mayor of City of Anderson during the time of this action. Broderick is directly responsible for the city police and the implication of police policies.

24. Paul Podlejski, was acting city attorney at all times of this action, all requests for public records for the city have to be approved by him. He never produces needed documentation or other evidence requested for discovery.

#### **DAMAGES**

25. As a direct result of the detailed actions of Defendants, the Plaintiff suffered horrific injuries.

26. The Plaintiff seeks compensation for the damages but are not limited to the following:

a. physical and emotional pain and suffering

- b. loss of enjoyment of life
- c. psychological care expenses
- d. loss of employment and earning capacity due to injury sustained in this action
- e. Punitive damages
- f. all other relief, both general and specific, which he may be entitled to under the premises.

27. The conduct of Defendants was reckless, willful, and deliberate and such a nature that punitive damages should be imposed in an amount in accordance with the wrongful acts alleged of the defendants.

**PLAINTIFF'S PRAYER FOR RELIEF**

- 1. Award fair and adequate compensation for all injuries, damages, and losses laid out herein.
- 2. Award Plaintiff punitive damages in an amount that will deter the Defendants from repeating the conduct described herein.
- 3. For all other necessary and proper relief in the premises

**DEMAND FOR TRIAL BY JURY**

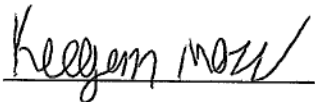
Come now, Plaintiff, pro se, and demand trial by jury.

Respectfully submitted,

Date 10/20/2022



Dantrez Johnson  
c/o Madison County Community Complex  
125 Jackson, Anderson, Indiana, 46016

 witness

 witness

**Certificate of Service**

I certify that on this 21<sup>st</sup> day of October, 2022 that this document was sent to opposing parties.

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